

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

LESTER JON RUSTON, #26834-177,)	
Plaintiff,)	
)	
v.)	3:06-CV-0238-B
)	ECF
UNITED STATES SECRET SERVICE,)	
Defendant.)	

**FINDINGS, CONCLUSIONS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Pursuant to the provisions of 28 U.S.C. § 636(b), and an order of the District Court in implementation thereof, this case has been referred to the United States Magistrate Judge. The findings, conclusions and recommendation of the Magistrate Judge, as evidenced by his signature thereto, are as follows:

FINDINGS AND CONCLUSIONS:

Parties: Plaintiff is currently confined at the Federal Medical Center in Springfield, Missouri, pursuant to an order of commitment filed on November 18, 2005, in No. 3:04cr191-G by a judge of this court. Defendant is the United States Secret Service. The Court did not issue process in this case pending preliminary screening.

Statement of Case: The complaint purports to be a civil suit for damages against the United States Secret Service pursuant to the provisions of the Federal Tort Claims Act (FTCA). The complaint was initially filed in the District of Columbia, which in turn transferred it to this

court on January 11, 2006.¹

Findings and Conclusions: Plaintiff's decision to file his complaint initially in the District of Columbia was not an inadvertent mistake on his part as he was well aware because of the filing of numerous frivolous lawsuits in the Northern District of Texas, that he was barred from filing any further actions in this District unless he tendered the required filing fee with his complaint or first obtained judicial permission to file a subsequent civil complaint. See Ruston v. Dallas County Sheriff's Department, et al., No. 3:04cv1517-K, Amended Judgment filed on September 14, 2004.²

As reflected in his initial pleadings, Plaintiff has not paid the required \$250.00 filing fee, but seeks to proceed *in forma pauperis*.

¹ For the reasons stated in the order, it is clear that venue is proper in the Northern District of Texas, where the alleged conduct giving rise to Plaintiff's FTCA claim occurred.

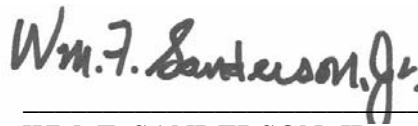
² The judgment in No. 3:04cv1517-K is one of at least three judgments in which complaints filed by Plaintiff in this District were dismissed because the filing fee had not been paid after it was determined that he was subject to the three-strike provision of 28 U.S.C. § 1915(g).

RECOMMENDATION:

Because Plaintiff has neither paid the required filing fee nor has he filed a motion for permission to file his complaint in this District, as required by the above referenced amended judgment, it is recommended that his complaint be dismissed.

A copy of this recommendation will be mailed to Plaintiff.

Signed this 28th day of February, 2006.

A handwritten signature in black ink that reads "Wm. F. Sanderson, Jr." The signature is written in a cursive style with a horizontal line extending from the end of the name.

WM. F. SANDERSON, JR.
UNITED STATES MAGISTRATE JUDGE

NOTICE

In the event that you wish to object to this recommendation, you are hereby notified that you must file your written objections within ten days after being served with a copy of this recommendation. Pursuant to Douglass v. United Servs. Auto Ass'n, 79 F.3d 1415 (5th Cir. 1996) (en banc), a party's failure to file written objections to these proposed findings of fact and conclusions of law within such ten-day period may bar a *de novo* determination by the district judge of any finding of fact or conclusion of law and shall bar such party, except upon grounds of plain error, from attacking on appeal the unobjected to proposed findings of fact and conclusions of law accepted by the district court.